

Docket No.: K0502.70037US00  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Basil Karanikos et al.  
Application No.: 10/658,925  
Confirmation No.: 3129  
Filed: September 10, 2003  
For: BEVERAGE FILTER CARTRIDGE  
Examiner: J. W. Drodge  
Art Unit: 1772

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Dated: October 25, 2011

Signature: \_\_\_\_\_/Danielle Calder/\_\_\_\_\_

**PAPER PURSUANT TO REMAND OF APPEAL**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This paper is filed pursuant to the remand of the appeal to the U.S. District Court of the District of Columbia of the rejection of claims in this application by the U.S. Patent Office (USPTO), Case Number 1:09-cv-02353-BAH. As indicated in the attached Notice of Electronic Filing, a Joint Motion for Remand of this application to the USPTO for further proceedings (see Appendix A) was granted by Judge Howell on September 27, 2011.

I. Background

In December 2009, real party in interest Keurig, Incorporated filed a civil action under 35 U.S.C. § 145 in the United States District Court for the District of Columbia so as to, at least in part, introduce into the record certain evidence that the Examiner and the Board of Patent Appeals & Interferences did not consider when rejecting claims 1-9, 12-19, and 22-44 of this

application, i.e., the '925 application.<sup>1</sup> On September 27, 2011, Keurig and the USPTO filed a joint motion to remand consideration of the '925 application to the USPTO. Keurig and the USPTO agreed that remand was warranted to allow the USPTO to consider Keurig's new evidence in the first instance and evaluate whether that new evidence establishes the patentability of claims 1-9, 12-19, and 22-44. This paper highlights this new evidence and explains why the rejections of claims 1-9, 12-19, and 22-44 over Sylvan and Spiteri are improper and should be withdrawn in view of such evidence.

## II. Outstanding Rejections for Consideration

Applicant requests that the examiner assigned to the application in this remand consider whether the outstanding rejections of the claims listed below are overcome or otherwise unsustainable in view of evidence produced during the § 145 action and/or otherwise made of record. The outstanding rejections are:

- 1) Claims 1-4, 7, 12-14, 17 and 22-44 are rejected under 35 U.S.C. §103(a) over U.S. Patent 5,325,765 to Sylvan et al. (Sylvan) in view of U.S. Patent Publication 2002/0185010 to Spiteri (Spiteri).
- 2) Claims 3, 5, 6, 9, 15, 16, 19 and 32 are rejected under 35 U.S.C. §103(a) over Sylvan in view of Spiteri and further in view of U.S. Patent 3,971,305 to Daswick (Daswick).
- 3) Claims 8 and 18 are rejected under 35 U.S.C. §103(a) over Sylvan in view of Spiteri and further in view of U.S. Patent 3,389,650 to Michielsen (Michielsen).

Claims 1-44 are pending with claims 1, 12 and 44 being independent claims. A full set of the pending claims is attached to this paper as Appendix B.

In short, all of the rejections are under 35 U.S.C § 103 and thus assume some reason for modifying Sylvan's cartridge in light of Spiteri and that there would have been a reasonable expectation of success in making the modification. A number of such reasons why one of

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<sup>1</sup> In its July 24, 2009 decision, the Board reversed the Examiner's rejection of claims 10-11 and 20-21.

ordinary skill in the art would have modified the Sylvan cartridge to include a pleated filter of Spiteri were previously suggested during prosecution, including:

Purported Reason to Modify Sylvan	Where Suggested
“[T]o further augment the self-supporting aspect of the filter”	<ul style="list-style-type: none"><li>• 8/6/07 Non-Final Rejection (mailed 8/10/07)</li><li>• 1/25/08 Final Rejection (mailed 1/30/08)</li><li>• 8/13/08 Examiner’s Answer to Appeal Brief</li></ul>
“[T]o facilitate handling and packaging [and] cost-effective production”	<ul style="list-style-type: none"><li>• 8/6/07 Non-Final Rejection (mailed 8/10/07)</li><li>• 1/25/08 Final Rejection (mailed 1/30/08)</li><li>• 8/13/08 Examiner’s Answer to Appeal Brief</li></ul>
“[To] provide stiffness so as to ensure sufficient rigidity to avoid collapse or sagging when wetted”  “[M]inimizing any sagging of Spiteri’s filter”	<ul style="list-style-type: none"><li>• 8/6/07 Non-Final Rejection (mailed 8/10/07)</li><li>• 1/25/08 Final Rejection (mailed 1/30/08)</li><li>• 8/13/08 Examiner’s Answer to Appeal Brief</li><li>• 7/24/09 Board Decision on Appeal</li></ul>
“[To] increase the effective filtering area and area available for filtration flow”  “[P]roviding a desired high filtering function.”  “[E]nhancing a filtering flow rate”  “[I]ncreasing an effective filtering area...for the purpose of obtaining a higher flow rate”	<ul style="list-style-type: none"><li>• 1/25/08 Final Rejection (mailed 1/30/08)</li><li>• 8/13/08 Examiner’s Answer to Appeal Brief</li><li>• 7/24/09 Board Decision on Appeal</li><li>• 10/14/09 Decision on Request for Rehearing</li></ul>

As indicated above, the ostensible desire for a higher flow rate was the sole theory on which the Board ultimately relied in its October 14, 2009 Decision on Request for Rehearing as purported motivation for combining Sylvan with Spiteri.

During the § 145 action, Keurig nevertheless produced evidence that disproved all of the purported reasons that had been articulated during prosecution.

### III. Evidence for Consideration

In addition to previously submitted evidence, attention is drawn to the following materials which were produced in connection with the § 145 civil action (attached as Appendix C),:

- Rule 26(a)(2)(B) Disclosure of Ted Lingle (Lingle Report) (Appendix C1)
- Rule 26(a)(2)(B) Disclosure of Professor John Stanton (Stanton Report) (Appendix C2)
- Rule 26(a)(2)(B) Expert Report of Professor Alexander Slocum (Slocum Report) (Appendix C3)
- Pages 3-5, 13-15, 23-25, 30, 36, & 43-44 of Ted R. Lingle, The Coffee Brewing Handbook (1st ed., 1996) (evidencing conventional wisdom as to the coffee brewing process) (Appendix C4)
- Timothy J. Castle, Coffee: Then and Now.... Tea & Coffee Trade Journal, Vol. 175/No. 8 (Aug./Sept. 2001) (evidencing low level of ordinary skill in the art at the time of the invention) (Appendix C5); and
- Joe Yonan, Brew-by-Cup Coffee Makers Fail Taste Test, Boston Globe, Dec. 11, 2003, at H3 (evidencing inadequacy of coffee filter cartridges constructed as disclosed in Sylvan) (Appendix C6)

The reports of Messrs. Lingle, Stanton, and Slocum are signed by the respective authors under the pains and penalties of perjury. Redactions have been made from the Stanton and Slocum reports to remove certain confidential information. Areas where redactions have been made are indicated.

Mr. Lingle is a coffee brewing expert with more than three decades of experience, including work on coffee quality standards as well as the development of instrumentation to measure coffee strength. He is the Executive Director of the Coffee Quality Institute and the author of many coffee-related texts, including the 1996 Coffee Brewing Handbook. (Lingle Report, pp. 2-3). Mr. Lingle's report details why persons of ordinary skill in the art would not

have been motivated to modify the cartridges illustrated in Sylvan by integrating the fluted filter described in Spiteri, and points out, for example:

- People of ordinary skill in the art would not have read Sylvan as suggesting the need for a faster flow rate than that possible when using a cartridge along the lines that Sylvan itself illustrates. In fact, increasing flow rate while holding other variables constant is a recipe for failure when making a coffee beverage using a cartridge like that in Sylvan. As taught in Mr. Lingle's 1996 Coffee Brewing Handbook, a filter should retard the flow of water so as to facilitate "steeping" rather than mere "rinsing" of the ground coffee. (Lingle report, pp. 28-29).
- Increasing flow rate would have been seen as a particularly undesirable step to take with the Sylvan cartridge itself. As of 2003, it was well known that the Sylvan design yielded a cup of coffee in less than a minute – a production rate that was fully acceptable to users of the Sylvan cartridge. The problem was not beverage production speed, but that the level of "total dissolved solids" (TDS) in the coffee was too low, such that the coffee was weak. Increasing flow rate, e.g., by adding a fluted filter as described in Spiteri, would have been going in exactly the wrong direction, as confirmed by experiments conducted by Professor Slocum and evaluated by Mr. Lingle. (Lingle report, pp. 29-30).
- Spiteri describes filters for use in a "conventional coffee brewer," including (although not limited to) an automatic drip machine.<sup>2</sup> By contrast, Sylvan's cartridges were directed to a specialized pressure-based brewing process that was relatively new at the time of the filing of this application. In particular, cartridge-based brewing using pressurized water was not described as one of the standard coffee making techniques that Mr. Lingle described in his report and which he had previously detailed in his 1996 Coffee Brewing Handbook. (Lingle report, pp. 11-15, 21-22, 28, 31-32).
- Finally, the level of ordinary skill in the art as of 2003 was relatively low. (Lingle report, p. 23).

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<sup>2</sup> Spiteri's filter could also be used with manual drip methods or drip pots, for example. (Lingle report, pp. 13-15 & 32).

Furthermore, Mr. Lingle details how the invention embodied in claims 1-9, 12-19, and 22-44 solved the long-felt need for a single-serve brewing solution that yielded coffee strong enough to be appealing to the average customer, i.e., evidence of secondary considerations that supports patentability of the claims. (Lingle report, pp. 23-27).

Professor Slocum is a professor of engineering at the Massachusetts Institute of Technology and has a wealth of practical experience in the development of seals for containing fluids. (Slocum report, ¶¶ 1-8). He carried out the above-noted experiments concerning the results of increasing flow rate in a Sylvan cartridge. (Slocum report, ¶¶ 46-65). Professor Slocum's report also details why artisans would have avoided using a fluted filter with the Sylvan cartridge in light of (1) documented concerns about achieving an adequate seal between the filter and the cartridge sidewalls (as required by Sylvan itself) (Slocum report, ¶¶ 72-86), (2) the difficulty of manufacturing acceptable fluted filters themselves (Slocum report, ¶¶ 87-104 & 125-130), and (3) the reality that Sylvan teaches the importance of avoiding contact between the filter and the cartridge sidewall whereas Spiteri and other "fluted filter" references describe using fluted filter designs for applications in which contact with a brew basket or other supporting sidewall structure is desired (Slocum report, ¶¶ 105-111 & 113-115).

Professor Stanton is a professor of food marketing at Saint Joseph's University and also the former Vice President of Marketing for Melitta, an international coffee company. (Stanton report, pp. 1-2). As explained in his report and buttressed by citations to an array of third-party reports as well as internal Keurig documentation, Professor Stanton concluded that (1) products sold by Keurig and covered by the '925 application claims have achieved tremendous commercial success (Stanton report, pp. 3 & 15-18) and (2) that success was due in significant part to functions and advantages associated with the claimed invention itself (Stanton report, pp. 18-28). Accordingly, Professor Stanton's report provides additional evidence regarding secondary considerations that support the patentability of at least the pending independent claims.

Attention is also drawn to how the evidence now of record directly contradicts many of the assertions and assumptions on which the rejections of claims 1-9, 12-19, and 22-44 were previously based, specifically in relation to asserted reasons why one of skill in the art would

have been motivated to make the purported obvious modification of the Sylvan cartridge. For example:

Previous Assertion and/or Assumption	Evidence Now of Record
<p>“Appellants have not disputed that Sylvan’s coffee brewers are conventional coffee brewers” (<i>Board’s 10/14/09 Decision on Request for Rehearing, p. 4</i>)</p> <p>“Spiteri teaches that its filters can be used with any conventional coffee brewers which generically include those conventional coffee brewers taught by Sylvan.” (<i>Board’s 7/24/09 Decision on Appeal, pp. 9 &amp; 14</i>)</p>	<p>“[P]eople in the coffee industry as of 2003 would not have even considered the pressurized Sylvan system to be a ‘conventional coffee brewer means’ (as specified in Spiteri).” (<i>Lingle Report, p. 4</i>)</p>
<p>“One of ordinary skill in the art would have been led to employ the optimum number of flutes or pleats in the side wall of the filter used...motivated by a desire to obtain various desired strengths of the coffee beverages consistent with the desired tastes of customers.” (<i>Board’s 10/14/09 Decision on Request for Rehearing, p. 9</i>)</p>	<p>“Such a scheme would be completely impractical in the real world and thus be immediately rejected by anyone with actual experience in the beverage industry and beverage brewing processes. The USPTO appears to be postulating that artisans would have tried (1) to develop entire arrays of filters varying only in the number of flutes or pleats, then (2) to calibrate those filters so as to achieve the taste profiles desired by various different groups of consumers....This convoluted approach would be much more cumbersome than simply adjusting other variables such as the brewing formula. Even ordinary consumers can vary coffee strength by altering the ratio of coffee to water. By contrast, no one is going to purchase – much less stock or manufacture – an entire set of closely related filters to suit varying tastes.” (<i>Lingle Report, p. 31</i>)</p>
<p>“Appellants have not provided any objective evidence to show that the addition of flutes or pleats known for increasing an effective filtering area in the side wall of the filter used in Sylvan’s coffee filter cartridge is not desirable.” (<i>Board’s 10/14/09 Decision on Request for Rehearing, p. 9</i>)</p>	<p>“[I]ncreasing flow rate while holding other variables constant is a recipe for failure. As explained in Section IV.C above, a critical factor in the coffee brewing process is the amount of time that the ground coffee spends in contact with the hot water. An increased flow rate would decrease coffee strength and/or extraction. This is exactly why my 1996 <u>Coffee Brewing Handbook</u> explains</p>

Previous Assertion and/or Assumption	Evidence Now of Record
<p>“The Declarations do not provide any evidence to support Appellants’ assertion at pages 20 and 21 of the Appeal Brief that a high flow rate (high filtering rate) is not desirable in Sylvan’s coffee brewer...”  <b>(Board’s 7/24/09 Decision on Appeal, p. 15)</b></p>	<p>that a filter should preferably retard the flow of water to some extent, thereby facilitating ‘steeping’ of the coffee rather than mere ‘rinsing.’” (p. 43). <b>(Lingle Report, p. 29)</b></p> <p>“In fact, the very idea of creating specialized channels for the flow of liquid during the brewing process would have been counterintuitive to a person of ordinary skill in the art as of 2003.... ‘[C]hanneling’ of water flow can result in particularly poor coffee that is over-extracted in certain sections and underextracted in others. As I noted in the 1996 <u>Coffee Brewing Handbook</u>, moreover, this is an especially serious concern when dealing with ‘equipment using relatively short brewing times, particularly single-cup brewers.’” (p. 36). <b>(Lingle Report, p. 22)</b></p>
<p>“It is also argued that the effect of providing flutes or pleats in a coffee filter as in Sylvan to provide increased filter surface area does not necessarily improve the brewing cartridge’s ability to make an improved coffee beverage product, since the resulting increased filter area would result in a reduced contact time between brew water and coffee grounds and thus undesirably weaker or lower quality coffee product. This argument is countered by stating that <i>‘quality’ of coffee product is more a factor of quality or type of coffee grounds than rate of flow passage through the coffee filter.</i> Quality of coffee is not merely a matter of coffee strength, if necessary, many automatic coffee brewing machines offer controls that allow separate selection of strength of coffee to be produced during coffee infusion. Many consumers prefer relatively weak coffee.”  <b>(Examiner’s Answer to Appeal Brief, p. 11) (emphasis added)</b></p>	<p>“Proper brewing technique is a critical step in the process of obtaining a desirable cup of coffee. <b><i>If the brewing parameters (detailed below) are not properly controlled, one could start with the highest-quality coffee beans in the world and nevertheless find oneself with drink that is not fit for human consumption.</i></b> The nature of the finished coffee depends on strength (i.e., solubles concentration) as well as extraction (i.e., solubles yield). Each must fall within a relatively narrow range in order for the coffee to be acceptable to consumers.” <b>(Lingle Report, p. 5) (emphasis added)</b></p> <p>“[T]he USPTO patent examiner’s conclusion are fundamentally flawed because he wrongly assumed that the ‘quality or type of coffee’ trumps other variables. (K001068). This is a common misunderstanding of people who are not involved in the coffee industry and/or not familiar with the coffee brewing process. While using quality beans is necessary in order to achieve a desirable cup of coffee, it is by no means sufficient. As explained above, one could start with the highest-quality coffee beans in the world and nevertheless find oneself with a drink that is not fit for human</p>



Previous Assertion and/or Assumption	Evidence Now of Record
	consumption.” ( <i>Lingle Report</i> , p. 9)
<p>“Sylvan and Spiteri are commonly concerned with coffee filters utilized in one form or another of an automatic coffee-brewing machine, and commonly utilize light-weight, portable paper or synthetic fiber coffee filters.” (<i>Examiner’s 1/30/08 Final Rejection</i>, p. 8)</p> <p>“Sylvan and Spiteri commonly refer to ‘self-supporting’ as being resistant to sagging against the sidewalls of the brewer container when wetted....” (<i>Examiner’s Answer to Appeal Brief</i>, p. 10)</p>	<p>“Unlike the Sylvan filter, which was sealed to, and suspended within a cartridge, the Spiteri filter was designed to be ‘stood on the inside of a vessel such as a coffee basket.’ (Para. 5). Thus, Spiteri’s free-standing filter derives its “self-supporting” aspect and its resistance to collapse from pleats. By contrast, the “self-supporting” character of Sylvan’s filter is based upon it being sealed to and suspended within the cartridge.” (<i>Slocum Report</i>, ¶ 26)</p> <p>“The USPTO focused on the idea of a ‘self-supporting’ filter while ignoring the reality that Sylvan and Spiteri coincidentally use this same term to refer to two entirely different and mutually-exclusive concepts. Sylvan uses the term to emphasize the need for a filter that does not collapse against the sidewalls of Sylvan’s cartridge even when subjected to pressurized hot water. (E.g., Col.1, lines 50-54 &amp; Col. 3, lines 11-13). Sylvan achieves this goal by (1) selecting appropriate filter material and (2) sealing the top edges of the filter to the cartridge itself while ensuring that the filter otherwise has a different shape so as to diverge from the base. (Col. 2, lines 10-15). Spiteri happens to uses the same word (i.e., ‘self-supporting’) to describe an entirely different concept: using flutes or pleats to prevent the filter from collapsing in a way that allows water or beverage media (e.g., coffee grounds) to bypass the filter entirely and pass directly into the finished beverage. (paras. 1-3) (<i>Slocum Report</i>, ¶¶ 113-14).</p> <p>“Spiteri’s filter was designed to stand on the brew basket or other vessel. (Paragraph 5). Spiteri suggested adding a particular array of flutes or pleats to prevent the filter from ‘sagging and drooping,’ as such collapse risked allowing (1) water and/or (2) unfiltered coffee to bypass the filter. (Paragraphs 2-3 and 8). Michielsen addressed the same concerns. (Col. 3, line 38). In</p>

Previous Assertion and/or Assumption	Evidence Now of Record
	<p>the context of Sylvan’s own unique niche, however, the problem addressed by Spiteri and Michielsen did not even exist. By sealing the filter to the sidewalls of the cartridge, Sylvan minimized the risk of either (1) pure water or (2) unfiltered coffee passing into the cup. The filter itself defined an enclosed first chamber containing the coffee. Unless the seal itself failed, water would always need to pass through the coffee (contained within a first chamber of the cartridge defined by the filter itself) and then the filter.” (<i>Lingle Report, pp. 21-22</i>)</p>
<p>“Spiteri shows maintaining of the spacing of the filter sidewalls from brewing container sidewall during brewing or flowing of the water, which is a main objective of Sylvan. (<i>Examiner’s Answer to Appeal Brief, p. 9</i>)</p>	<p>“Spiteri also differs from Sylvan in that its radially-expanding filter naturally makes contact with the walls of the brew basket in which it is unfolded. Indeed, wall contact in Spiteri prevents the filter from collapsing. By contrast, Sylvan discourages wall contact because it blocks filter flow, and hence Spiteri teaches away from Sylvan. In addition, the hot water is dripped onto the top of the coffee held by Spiteri’s filter and then seeps downward to the bottom of the coffee basket where it flows out a central hole and into the carafe or other receptacle. There is no appreciable radial flow.” (<i>Slocum Report, ¶ 27</i>)</p> <p>“Sylvan emphasized the importance of avoiding contact between the filter and the cartridge sidewalls. By contrast, the point of fluted, pleated, and corrugated filters in the conventional context (again, as exemplified by Spiteri) was to promote contact between the filter and a variety of different brew baskets. The ‘925 inventors pressed ahead despite these teachings, whereas typical designers – historically resistant to new ideas – would have been inclined to follow them.” (<i>Lingle Report, p. 28</i>)</p>
<p>“[P]leating or fluting of coffee filters as in Spiteri would result in easier packaging of the filters as such folding would enable a larger amount of filters to fit into a package of a given size than filters that could not be</p>	<p>“[E]very single one of the pending claims in the ‘925 application requires a cartridge having a filter that incorporates flutes, pleats, or corrugations and is also ‘directly joined’ to the interior of the cartridge. This itself leads me to conclude that the</p>

Previous Assertion and/or Assumption	Evidence Now of Record
<p>folded. Relative difficulties or complexities of manufacturing the coffee filters of Spiteri and Sylvan are largely speculative.” (<i>Examiner’s Answer to Appeal Brief, p. 11</i>)</p> <p>“[T]he filters of both Sylvan and Spiteri are necessarily manufactured, handled and packaged separately, by separate manufacturing steps, from those concerning the brewing basket, and other portions of the respective automatic drip-brewing, arrangements. Discrete handling and packaging steps, and perhaps shipping steps for the filters alone, are inherently required before the filters are joined or assembled to the remainder of the brewing assembly, or prepared for separate retail sale, respectively. Thus the manufacturers are motivated to find expedients for preparation of, handling, packaging and otherwise cutting costs for manufacturing the filters. (<i>Examiner’s 1/30/08 Final Rejection, p. 8</i>)</p>	<p>‘925 claims would not have been obvious. In fact, I understand that Keurig experienced significant problems in practice when trying to develop manufacturing processes to seal fluted filters to the cartridge sidewalls. It was even necessary to retrieve the initial production line from Green Mountain Coffee Roasters and return it to Keurig for further development. (Discussions with Mr. Kevin Sullivan, Keurig’s Vice President of Engineering). Sealing-related concerns are hardly the only reason why people of ordinary skill in the art as of 2003 would have avoided using a fluted, pleated, or corrugated filter in Sylvan’s cartridge design. Artisans would also have been discouraged by the challenge of manufacturing the necessary filters in the first place (i.e., before sealing them to the cartridge sidewalls).... Artisans would also have recognized the need for the production line to turn out individual filters, as opposed to the typical ‘nest’ that one encounters when buying fluted filters for conventional drip brewers. The reason itself is simple: one ultimately must attach a single filter – not an entire nest – to the cartridge. In order to turn out individual filters on a production line, however, one would have needed either (1) to devise a suitable means for automated “de-nesting” or (2) to form filters using only a single layer of filter paper (as opposed to multiple sheets, which would afford the “nest” of filters). In the context of the Sylvan cartridge design, neither one of these options would have been at all appealing to a person of ordinary skill as of 2003.” (<i>Slocum Report, ¶¶ 85-91</i>)</p>

Additional evidence contradicting the asserted reasons for modifying Sylvan includes the following:

<b>Purported Reason to Modify Sylvan</b>	<b>Evidence Now of Record</b>
“[T]o further augment the self-supporting aspect of the filter”	<ul style="list-style-type: none"><li>• Slocum Report, ¶¶ 105-111 &amp; 113-115</li></ul>
“[T]o facilitate handling and packaging [and] cost-effective production”	<ul style="list-style-type: none"><li>• Slocum Report, ¶¶ 72-104 &amp; 125-130</li></ul>
“[To] provide stiffness so as to ensure sufficient rigidity to avoid collapse or sagging when wetted”  “[Minimizing any sagging of Spiteri’s filter”  “[To] increase the effective filtering area and area available for filtration flow”  “[P]roviding a desired high filtering function.”  “[E]nhancing a filtering flow rate”  “[I]ncreasing an effective filtering area...for the purpose of obtaining a higher flow rate”	<ul style="list-style-type: none"><li>• Lingle Report, pp. 28-30</li><li>• Slocum Report, ¶¶ 116-124</li></ul>

In view of the foregoing evidence now of record, Applicants respectfully submit that the rejections of claims 1-9, 12-19, and 22-44 over the combined disclosures of Sylvan and Spiteri; Sylvan, Spiteri, and Daswick; and/or Sylvan, Spiteri, and Michielsen are improper and cannot be sustained. Withdrawal of these rejections and allowance of claims 1-44 is hereby requested.

**CONCLUSION**

In view of the foregoing, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes that the application is not in condition for allowance, the Examiner is requested to call the Applicants' representative at the telephone number indicated below to discuss any outstanding issues relating to the allowability of the application.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed, or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. K0502.70037US00 from which the undersigned is authorized to draw.

Dated: October 25, 2011

Respectfully submitted,

/Robert E. Hunt/

Robert E. Hunt, Reg. 39,231  
WOLF, GREENFIELD & SACKS, P.C.  
Federal Reserve Plaza  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2206  
Tel: 617.646.8000